

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 5, 2010

AMENDED IN ASSEMBLY MARCH 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1725**

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**Introduced by Assembly Member Swanson**

February 3, 2010

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An act to ~~amend Section 3053 of~~ *add Section 7507 to* the Penal Code, relating to prisoners.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1725, as amended, Swanson. ~~Parole: conditions of release: HIV/AIDS-Inmates: HIV testing.~~

*Existing law authorizes, subject to specified procedures and restrictions, the medical testing of prisoners for HIV under certain circumstances.*

*This bill would require the chief medical officer in every state prison, and the medical director of each state hospital housing patients sentenced pursuant to the Penal Code, for each inmate or patient to be incarcerated in or committed to that facility for more than one year, to offer testing for HIV at admission to the prison or facility and at least annually while the inmate or patient is incarcerated or committed, as specified.*

~~Existing law establishes the Board of Parole Hearings and grants it the power to allow prisoners imprisoned in state prisons to go outside the prison on parole. Existing law imposes specified conditions upon parole for various circumstances and allows the Board of Parole Hearings to impose additional conditions of parole that it deems proper.~~

~~Under existing law the board may impose as a condition of parole that any prisoner granted parole undergo an examination or test for tuberculosis if the board reasonably suspects the parolee has been exposed to tuberculosis.~~

~~This bill would also require that the board impose as a condition of parole that any prisoner granted parole undergo testing for HIV/AIDS. This bill would require the testing to be conducted within 120 days prior to the prisoner's release on parole.~~

~~This bill would make other technical changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. This act shall be known as the Community  
2     Re-Entry HIV/AIDS Prevention Act.

3     SEC. 2. Section 7507 is added to the Penal Code, to read:

4     7507. (a) *The chief medical officer in every state prison and*  
5     *the medical director of each state hospital housing patients*  
6     *committed pursuant to provisions of this code shall ensure that*  
7     *each person who is sentenced to be incarcerated in or committed*  
8     *to that facility for more than one year be offered testing for human*  
9     *immunodeficiency virus (HIV) at admission and at least annually*  
10    *while incarcerated or committed. Inmates shall be advised that*  
11    *they are allowed to decline HIV testing. The Public Health Unit*  
12    *of the Department of Corrections and Rehabilitation shall develop*  
13    *an informed consent process to be used for HIV testing. The inmate*  
14    *shall be provided counseling and education about HIV. The inmate*  
15    *shall not be disciplined nor shall parole be affected if he or she*  
16    *declines testing.*

17    (b) *Nothing in this section shall be construed to limit the*  
18    *provision for requiring HIV testing as set forth in Chapter 2*  
19    *(commencing with Section 7510) of this title.*

20    (c) *The results of the test shall be made available to the prison*  
21    *chief medical officer, the medical director of the state hospital,*  
22    *and the inmate within 30 days of the test. If the results are positive,*  
23    *the prison or hospital shall not subject an inmate to disciplinary*  
24    *proceedings or deny participation in prison or hospital programs*  
25    *and activities based solely on the results.*

26    ~~SEC. 2. Section 3053 of the Penal Code is amended to read:~~

1     ~~3053. (a) The Board of Parole Hearings upon granting any~~  
2 ~~parole to any prisoner may also impose on the parole any~~  
3 ~~conditions that it may deem proper.~~

4     ~~(b) The Board of Parole Hearings may impose as a condition~~  
5 ~~of parole that any prisoner granted parole undergo an examination~~  
6 ~~or test for tuberculosis when the board reasonably suspects that~~  
7 ~~the parolee has, has had, or has been exposed to, tuberculosis in~~  
8 ~~an infectious stage.~~

9     ~~(c) The Board of Parole Hearings shall impose as a condition~~  
10 ~~of parole that any prisoner granted parole undergo an examination~~  
11 ~~or test for human immunodeficiency virus (HIV) and acquired~~  
12 ~~immune deficiency syndrome (AIDS). The examination or test~~  
13 ~~shall be conducted within 120 days prior to the release of the~~  
14 ~~prisoner on parole.~~

15     ~~(d) For purposes of this section, an “examination or test for~~  
16 ~~tuberculosis” means testing and followup examinations or treatment~~  
17 ~~according to the Centers for Disease Control and American~~  
18 ~~Thoracic Society recommendations in effect at the time of the~~  
19 ~~initial examination.~~